



COMMONWEALTH OF
PUERTO RICO

Telecommunications Regulatory Board
Office of the Chairman

November 17, 2016

Chairman Tom Wheeler
Commissioner Mignon Clyburn
Commissioner Jessica Rosenworcel
Commissioner Ajit Pai
Commissioner Michael O'Reilly

Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Legacy High Cost Support for Competitive Eligible Telecommunications Carriers, WC Docket No. 10-90, WT Docket No. 10-208

Chairman Wheeler and Commissioners:

Over the last few years, the Telecommunications Regulatory Board of Puerto Rico (Board) has participated actively in the Commission's efforts to modernize its universal service support mechanisms. The Board is mandated with implementing the public policy that assures that the citizens of Puerto Rico enjoy the same telecommunication and information services that those in the Mainland possess. (Statement of Motives of Law No. 213 of 1996, as amended)

The government of Puerto Rico has focused on broadband access, adoption, and use as critical parts of the island's economic recovery.¹ We share the Commission's perspective that federal universal service mechanisms should be modernized to directly support the provision of broadband service in the United States, and I appreciate the direct attention that you have given to the broadband access and adoption challenges we face in Puerto Rico.

I am writing today to urge the Commission to proceed expeditiously with implementation of *all* universal service programs in Puerto Rico. Last year, I wrote, in the context of Phase II of the Connect America Fund (CAF) that the Commission should adopt a "tailored" approach to the CAF that meets the broadband access challenges in Puerto Rico – and that until such a plan is put in place, existing levels of high-cost support in Puerto Rico must remain.²

¹ See *The Gigabit Island Plan, Puerto Rico, Broadband Strategic Assessment* (Feb, 2015).


² Commonwealth of Puerto Rico, Telecommunications Regulatory Board, Letter To Chairman Tom Wheeler and FCC Commissioners, WC Docket No. 10-90, June 19, 2015.

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I understand that the Commission is considering a proposal that would run counter to this principle and would instead phase out high-cost support for competitive Eligible Telecommunications Carriers (“CETCs”) that operate in Puerto Rico. Phasing out support for CETCs in Puerto Rico *without* fully undertaking the other components of high-cost fund modernization is decidedly unfair to the people of Puerto Rico, could do substantial harm to efforts to improve broadband access in Puerto Rico, and could unduly hamper implementation of Lifeline broadband service in Puerto Rico. Given that Puerto Rico has lower broadband access and adoption than any state in the U.S., this action would run directly counter to the Commission’s goals in the modernization effort.

The Commission first noted its desire to put in place a “tailored” approach to the CAF in December 2014,³ but since then, there has been little progress in implementing that approach. As of this writing, we do not know the extent to which frozen high-cost support funds will be re-deployed to support broadband through the CAF, the obligations that will be placed on companies that receive those funds, the nature and term of support, the timeline of deployment, and other service level agreements. Because we have no indication whatsoever as to how the CAF will operate for fixed broadband service in Puerto Rico, in no way should the Commission move forward and begin to phase out high-cost support for CETCs that serve the island, many of whom use that support to offer wireless broadband service.

The Broadband Access Gap in Puerto Rico Persists



In my June 2015 letter to you regarding the Connect America Fund, I documented the broadband access gap that plagues Puerto Rico. Even today, Puerto Rico broadband infrastructure trails the mainland considerably, and with regard to advanced services, the gap is widening. However, as of this writing, while Puerto Rico alone accounts for 7% of the entire American population without broadband access, the Commission has only committed 0.3% of the Connect America Fund to bridging this gap in Puerto Rico. If the Commission wants to bridge the broadband access gap, it should be investing *more* funds in Puerto Rico—now is certainly not the time to take away existing high-cost funding from Puerto Rico.

In December 2014, the Commission recognized that as an insular territory within the United States, Puerto Rico faces unique telecommunications challenges that, in turn, require a unique approach to serving the universal needs of consumers. I urge the Commission to recognize the unique challenges facing Puerto Rico and maintain current high-cost support for all ETCs on the island, including CETCs, until the Commission fully implements Phase II of the Connect America Fund and Phase II of the Mobility Fund in Puerto Rico.

³ *Connect America Fund et al.*, WC Docket Nos. 10-90 et al., Report and Order, 29 FCC Rcd 15644, 15661-63, paras. 45-49 (2014).

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As Commission data demonstrates, the broadband access gap in Puerto Rico is immense. A staggering 62% of the population of Puerto Rico does not have access to broadband service (defined as 25 Mbps download and 3 Mbps upload) compared to 10% of the population of the United States nationally. In rural areas of Puerto Rico, 98% of the population does not have access to broadband service.⁴

Wireless broadband service plays a significant role in connecting the Island's population to the Internet. A recent survey by Connect Puerto Rico and the Puerto Rico Institute of Statistics shows that only 55% of the Island's population subscribes to fixed broadband service, and that 67% of the adult population regularly uses mobile broadband service. 19% of Puerto Rico adults rely solely on mobile broadband for Internet access, compared to only 6% in the U.S. as a whole. Clearly, maintaining and expanding wireless broadband infrastructure in Puerto Rico is an important part of closing the broadband availability gap.

In addition, wireless broadband will play an important role in implementation of Lifeline broadband in Puerto Rico. As I have said before, the Commission's modernization of the Lifeline program will only be a success if it is successful in Puerto Rico.⁵ The Board is working closely with the Universal Service Administrative Company, Puerto Rico government agencies, and providers on the island to support a robust and aggressive roll-out of the new Lifeline broadband benefit next month. Now is not the time to be undermining that progress by removing funding that is used to support the broadband infrastructure on which these new Lifeline services will be delivered.

In addition, the Board just recently recertified CETCs' use of legacy high cost support for 2017 based upon commitments made by these carriers.⁶ This recertification was made in reliance and expectation that high-cost funding would be available. For the same reason that the Commission decided to freeze Connect America Fund Phase II funding pending the creation of a tailored universal service solution for Puerto Rico, CETCs in Puerto Rico should be given the same option, as I outline below.

Recommendations for Maintaining Legacy High Cost Support for CETCs

I urge the Commission to follow my recommendations made in June 2015 that all high-cost funding in Puerto Rico be maintained at current levels until a tailored approach to solving the broadband access gap is implemented.

⁴ 2016 Broadband Progress Report, FCC 16-6, App. D (rel. Jan 29, 2016).

⁵ Letter from Thomas M. Koutsy, Chief Policy Counsel, Connected Nation, to Marlene H. Dortch, Secretary, Federal Communications Commission, WC Docket Nos. 11-42, 09-197, 10-90 (Feb. 26, 2016).

⁶ Letter from Jessica Fuster-Rivera, Esq., Secretary, Telecommunications Regulatory Board of Puerto Rico, to Marlene H. Dortch, Secretary, Federal Communications Commission, CC Docket No. 96-45, WC Docket No. 14-58 (Sep. 27, 2016).

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With regard to legacy high cost CETC funding, I believe the Commission should:

1. Maintain legacy high cost support for CETCs serving Puerto Rico at current frozen support levels (which is already 40% lower than CETC support in 2011).
2. Pending implementation of a comprehensive plan the Connect America Fund and Mobility Fund that address all unserved areas of Puerto Rico, require any CETC receives legacy high cost support to use those funds to build and maintain 4G networks in Puerto Rico that adequately cover at least 90% of the population, or that CETC's current coverage area, whichever is greater.
3. If a CETC does not agree to meet this deployment commitment using legacy high cost support, it would surrender that support. Any surrendered support should be pooled with Connect America Fund Phase II frozen support funds for use in funding a comprehensive universal service funding mechanism for Puerto Rico that incorporates both fixed and wireless access.
4. Require that all recipients of legacy CETC funding fully participate in the Commission's Lifeline program for both voice and broadband service.

This approach to universal service funding in Puerto Rico would not only ensure current wireless broadband availability levels in Puerto Rico, but it would also address and prioritize implementation of a tailored approach to Connect America Fund Phase II fixed broadband service as well as support the roll-out of Lifeline broadband in Puerto Rico. Simply phasing out universal service funding levels without implementing these other initiatives would be an unconscionable disservice to the people of Puerto Rico, who are among the most "disconnected" in the United States.

Sincerely,



Javier Rúa Jovet, Esq.
Chairman
Puerto Rico Telecommunications
Regulatory Board